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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,482	06/06/2001	Etienne Susini	8-1034-052	9555

803 7590 10/15/2003

STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES, IA 50309-4076

EXAMINER

FERGUSON, LAWRENCE D

ART UNIT	PAPER NUMBER
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1774

13

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/875,482

Applicant(s)

SUSINI, ETIENNE

Examiner

Lawrence D Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment mailed July 23, 2003. Claims 9-26 were amended and are pending.

Objection

2. Claim 26 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative. See MPEP § 608.01(n).

Claim Rejections – 35 USC § 103(a)

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-10, 12, 14, 16-18, 20 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dohrer (U.S. 5,085,927) in view of Regnier (U.S. 6,451,446).

Dohrer discloses a multilayer film comprising three layers, where the first layer comprises LLDPE having a density from about 0.890 g/cc to about 0.930 g/cc (column

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3, lines 19-65) the middle layer comprises polyolefins such as polypropylene, polyethylene (a thermoplastic polyolefin) and LLDPE (column 5, lines 10-20) and the third layer comprises LLDPE having a density from about 0.890 g/cc to about 0.980 g/cc (column 5, lines 40-50).

Dohrer discloses the film has an overall thickness ranging from about 0.3 mil to about 5.0mil (7.62 μm to 127 μm), where the first layer has a thickness of 0.025 to about 0.9mils, the middle layer has a thickness of 0.020 to about 2.7 mils and the third layer has a thickness of between 0.025 to about 0.9 mils (column 6, lines 20-29). Dohrer does not teach producing the film with any corona oxidation treatment, therefore meeting the limitations of instant claims 14, 16 and 17. The phrase, 'wherein at least one of said outside layers contains less than 1300 ppm of a slip agent' includes 0, meaning the outside layer does not have to obtain a slip agent. Dohrer does not disclose the density or melt index of the middle layer.

Regnier teaches a multilayer film comprising a core layer made of polypropylene having a density of from 0.895 to 0.910 and a melt index of from 0.5 to 10 g/10 min. Dohrer and Regnier are analogous art because they are both from the field of multilayered films. It would have been obvious to one of ordinary skill in the art to include the density and melt index of the middle layer in the film of Dohrer because Regnier teaches the low density polypropylene core layer helps reduce the cost of the multilayer film (column 3, lines 25-30). Although neither reference explicitly shows that the multilayer film has a weight percentage as in instant claim 9, such weight percentages are properties which can be easily determined by one of ordinary skill in

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the art. With regard to the limitation of the weight percent, absent a showing of unexpected results, it is obvious to modify the conditions of a composition because they are merely the result of routine experimentation. The experimental modification of prior art in order to optimize operation conditions (e.g. weight percent) fails to render claims patentable in the absence of unexpected results. The aforementioned limitation is optimizable as it directly affects the mechanical strength and price of the multilayered film. As such, it is optimizable. It would have been obvious to one of ordinary skill in the art to make the film with the limitation of the weight percent since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 USPQ 215 (CCPA 1980).

Claim Rejections – 35 USC § 103(a)

5. Claims 9-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dohrer (U.S. 5,093,188) in view of Regnier (U.S. 6,451,446).

Dohrer discloses a multilayer film comprising three layers (column 2, lines 11-14) where the first layer comprises LLDPE having a density from about 0.890 g/cc to about 0.930 g/cc (column 3, lines 4-14) the middle layer comprises polyolefins such as polypropylene, polyethylene (a thermoplastic polyolefin) and LLDPE (column 3, lines 55-64) and the third layer comprises LLDPE having a density from about 0.890 g/cc to about 0.980 g/cc (column 4, lines 3-22). Dohrer discloses the film has an overall thickness ranging from about 0.3 mil to about 3.0mil (7.62 μm to 76.2 μm), where the

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first layer has a thickness of 0.025 to about 0.9mils, the middle layer has a thickness of 0.020 to about 2.7 mils and the third layer has a thickness of between 0.025 to about 0.9 mils (column 2, lines 48-56). The reference teaches the melt temperature of the first and third layers as 510°F (265°C) and 480°F (248°C), respectively (column 6, lines 40-42) where the polyolefins have a softening point, which is defined as a Vicat temperature. Dohrer does not teach producing the film with any corona oxidation treatment, therefore meeting the limitations of instant claims 14, 16 and 17. The phrase, 'wherein at least one of said outside layers contains less than 1300 ppm of a slip agent' includes 0, meaning the outside layer does not have to obtain a slip agent. Dohrer does not disclose the density or melt index of the middle layer.

Regnier teaches a multilayer film comprising a core layer made of polypropylene having a density of from 0.895 to 0.910 and a melt index of from 0.5 to 10 g/10 min. Dohrer and Regnier are analogous art because they are both from the field of multilayered films. It would have been obvious to one of ordinary skill in the art to include the density and melt index of the middle layer in the film of Dohrer because Regnier teaches the low density polypropylene core layer helps reduce the cost of the multilayer film (column 3, lines 25-30). Although neither reference explicitly shows that the multilayer film has a weight percentage as in instant claim 9, such weight percentages are properties which can be easily determined by one of ordinary skill in the art. With regard to the limitation of the weight percent, absent a showing of unexpected results, it is obvious to modify the conditions of a composition because they are merely the result of routine experimentation. The experimental modification of prior

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art in order to optimize operation conditions (e.g. weight percent) fails to render claims patentable in the absence of unexpected results. The aforementioned limitation is optimizable as it directly affects the mechanical strength and price of the multilayered film. As such, it is optimizable. It would have been obvious to one of ordinary skill in the art to make the film with the limitation of the weight percent since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 USPQ 215 (CCPA 1980).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dohrer (U.S. 5,208,096) discloses a stretch wrap multilayered film (column 2, lines 6-20) with the middle layer comprising polypropylene (column 5, lines 1-5) and the two outside layers comprising LLDPE (column 7, lines 26-31). Additionally, Ralph (U.S. 5,279,872) discloses a multilayer stretch film comprising a core layer between a first and second outer layer comprising low density polyethylene (column 3, lines 25-44) where the ethylene components are based on a linear relationship (column 4, lines 20-23) and a core layer consisting of polypropylene (column 5, lines 40-42).

Response to Arguments

7. Rejection made under 35 USC 112, second paragraph is withdrawn due to Applicant changing the trademark to a more common form.

Arguments made regarding rejection under 35 U.S.C. 103(a) as being unpatentable over Dohrer (U.S. 5,085,927) in view of JP 970094439 are moot based on grounds of new rejection. Additionally, Arguments made regarding rejection under 35 U.S.C. 103(a) as being unpatentable over Dohrer (U.S. 5,093,188) in view of JP 970094439 are moot based on grounds of new rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703) 305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



Lawrence D. Ferguson
Examiner
Art Unit 1774

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

